

In re Application of)
Jean-Marie Clement) Decision on Request for
Serial No. 08/054,951) Extension of Time Under
Filed: April 27, 1993) 37 C.F.R. § 1.304(a)(3)(ii)
Title: METHOD FOR PRODUCING)
PULP FROM PRINTED UNSELECTED)
WASTE PAPER)
)

MEMORANDUM AND ORDER

Pursuant 37 C.F.R. § 1.304(a)(3)(ii), Applicant Jean-Marie Clement has petitioned the Commissioner of Patents and Trademarks for an extension of time to file a notice of appeal to U.S. Court of Appeals for the Federal Circuit.

On June 26, 1996, the Board of Patent Appeals and Interferences ("Board") issued a decision rejecting claims 1-18 and 49-52 of Clement's reissue application S/N 08/054,951. The Board's rejection under 35 U.S.C. § 251 was based on a defective reissue declaration and based on the fact that the application lacked any basis for reissue. Accordingly, pursuant to 1.304(a)(1), Clement had two months from June 26, 1996 (*i.e.*, until August 26, 1996) to file a notice of appeal to the U.S. Court of Appeals for the Federal Circuit or commence a civil action. The August 26, 1996 date passed without Clement either filing a notice of appeal or commencing a civil action.

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Clement now requests that the Commissioner grant him an extension of time such that he may file his notice of appeal to the Federal Circuit. Clement has included a notice of appeal with his time extension request.

Upon reviewing his request, the Commissioner has determined that Clement has sufficiently shown that his "failure to act was the result of excusable neglect." 37 C.F.R. § 1.304(a)(3)(ii). However, the Commissioner notes that Clement's repeated attempts to blame various mistakes made by him on either (i) his lack of counsel, (ii) his incompetent counsel, or (iii) his own lack of knowledge of U.S. patent law and practice before the PTO will not be tolerated in the future. See Clement Declaration in support of his request for an extension of time dated October 30, 1996, ¶ 7 ("I was unrepresented by U.S. counsel in this matter until recently and I am unfamiliar with United States patent law and practice before the USPTO."); see also Clement Reissue Declaration dated April 24, 1993, p. 6 ("The lack of appreciation on my part was due to my very limited understanding of U.S. patent law and the difficulties I had in explaining the invention to my U.S. attorneys through written communications requiring

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translation from Italian to English or vice versa by my Italian attorney. My U.S. attorneys failed to advise me as to the proper claim scope to which I was entitled because they simply did not understand all of the technical aspects of the invention.").

Therefore, although the Commissioner will grant Clement's request for an extension of time so that he may file his notice of appeal, Clement is cautioned that similar conduct will not be tolerated in the future.

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ORDER

On consideration of the request to the Commissioner, it is
ORDERED that the petition is granted, and the time for
filing a notice of appeal is extended to the date of this
decision and that Clement's Notice of Appeal is accepted.

FURTHER ORDERED that the above reissue application is
withdrawn from abandonment.

December 12, 1996


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